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09/725,619	11/29/2000	Pil Kyu Han	VZ-005	9521

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EXAMINER

LEZAK, ARRIENNE M

ART UNIT PAPER NUMBER

2143

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/725,619

Applicant(s)

HAN, PIL KYU

Examiner

Arrienne M. Lezak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-9 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-9 & 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

Examiner notes that Claim 6 has been amended, and Claims 13-18 have been added and Claims 1-5 & 10-12 have been canceled. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 25 March 2005 as reiterated herein below.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 6 & 13 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. Specifically, Examiner finds the wording, "in response to the first message not being received by the predetermined time" to be confusing, as a response is well known to be a reply, an answer or a reaction to an action (i.e.: a stimulus). Within Applicant's claim language, the use of the wording "in response to" is indefinite as not providing a tangible action by which the response is determined, and as such, said claim language requires amendment. For purposes of examination, the claim will be read as follows, "as a result of the first message not being received by the predetermined time".

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-9 & 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent US 6,697,103 B1 to Fernandez.

5. Regarding Claims 6, 13 & 14, Fernandez discloses a method of indicating the status of a Digital Subscriber (DSL) demonstration kiosk to a centrally located monitoring station, (Fig. 1; Col. 3, lines 43-47; Col. 15, lines 33-65; Col. 19, lines 22-25; & Col. 20, lines 6-11), the method comprising:

- establishing a DSL demonstration kiosk at a location accessible for users to sample the services offered by a DSL connection, (Col. 15, lines 18-31 & Col. 17, lines 14-21), (Examiner notes that Fernandez specifically teaches an electronic commercial transaction methodology, provided in a local mobile or fixed "kiosk", (on a DSL network), for matching potential buyer movement with fixed or mobile resources, which resources include products or services. Though Fernandez does not specifically teach DSL services, Examiner finds that providing DSL services would have been obvious to one of ordinary skill in the art at the time of invention by Applicant, especially in light of the fact that Fernandez teaches the provision of services generally, on a DSL network, and at a kiosk. The

- availability of the DSL network on a kiosk would obviously facilitate the provision of DSL services on the same for mobile consumers.);
- connecting the DSL demonstration kiosk to the centrally located monitoring station, said centrally located monitoring station comprising a server computer, (Col. 2, lines 22-48), and a ping utility, (Col. 15, lines 32-40 and Col. 17, lines 1-13);
  - transmitting to the centrally located monitoring station an Internet Protocol (IP) address assigned to the DSL demonstration kiosk, (Col. 3, lines 43-54 and Col. 5, lines 22-35);
  - periodically transmitting a first message, (ping signal), to the centrally located monitoring station, the first message indicative of the status of the DSL demonstration kiosk, (Col. 15, lines 32-40; Col. 17, lines 1-13; Col. 18, lines 35-48; and Col. 19, lines 15-26);
  - periodically receiving a ping signal is from the centrally located monitoring station and transmitting a response to the ping signal received from the centrally located monitoring station, (per pending Claim 14), (Col. 15, lines 32-40; Col. 17, lines 1-13; Col. 18, lines 35-48; and Col. 19, lines 15-26).
  - waiting to receive a first message at a predetermined time, said message indicative of whether the DSL demonstration kiosk is in service, (Col. 15, lines 32-40 and Col. 19, lines 15-25);
  - if the first message is not received at the predetermined time, then recording the time at which the failure of the arrival of the first message is

detected, (Col. 15, lines 9-65 & Col. 19, lines 15-25), (Examiner notes that monitoring obviously includes recording, especially in light of the fact that Fernandez teaches a diagnosis tool capable of simulation based on interpolated values between actual detected values and extrapolation according to actual historically detected values, wherein said values are obviously recorded for purposes of analysis, and wherein said values would obviously include system failure activity as part of the system diagnosis);

- generating an alert message, if said response is not received by a predetermined time, (Col. 15, lines 33-43), (Examiner notes that Fernandez teaches a diagnosis/corrective-action tool comprising a "ping" connection test, wherein notification of a connection failure would have been obvious as one form of corrective action); and
- transmitting the alert message to at least one of a pager and a telephone number as a result of the first message not being received by the predetermined time, (Col. 6, lines 59-67; Col. 7, lines 1-55; Col. 15, lines 9-41; and Col. 20, lines 21-27), (Examiner notes that Fernandez clearly teaches an improved electronic commercial transaction methodology, (i.e.: DSL services), which methodology may be applied to a "kiosk", and which methodology includes a diagnosis/corrective-action tool in addition telephone and pager notification means, wherein said notification means

could obviously be used as part of the corrective-action tool, in addition to other functionalities which said notification means may also provide).

Thus, Claims 6, 13 & 14 are found to be unpatentable over considerable consideration of the teachings of Fernandez.

6. Regarding Claim 15, Fernandez discloses the retransmitting of the DSL demonstration kiosk IP address upon reboot of a kiosk, (Col. 15, lines 32-40; Col. 17, lines 1-21; Col. 18, lines 35-48; and Col. 19, lines 15-26). Examiner notes the inclusion of a diagnosis and corrective-action tool as incorporated within Fernandez capable of ping testing. Such testing is used at any time, to detect and correct defective or unresponsive server sites, which are subsequently removed until the problem is resolved. Inherently, upon resolution of said problem, any ping test will cause a retransmission of the kiosk IP address, as the ping reply obviously, if not inherently, (Windows OS) includes an IP address. Further, Fernandez specifically teaches the deactivation of a defective or unresponsive site, which deactivation obviously causes the site to be in an inactive state, which inactive state obviously includes "off", and which "off" state obviously requires a reboot in order to become "on" or active again. Moreover, in the event that a site is deactivated, the same site would obviously need to share its reactivation and availability, (once reactivated/rebooted), with the network, for purposes of further communication. Thus, Claim 15 is found to be unpatentable over considerable consideration of the teachings of Fernandez.

7. Regarding Claims 7-9 & 16-18, Fernandez discloses a method for transmitting a ping signal to a DSL demonstration kiosk comprising determining and transmitting to the

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kiosk IP address, (per pending Claim 7 & 16), (Col. 4, lines 50-54), wherein the IP address is determined by database look-up, (per pending Claim 8 & 17), or from a message received from the kiosk, (per pending Claim 9 & 18), (Col. 17, lines 3-13 and Col. 18, lines 35-48). Thus, Claims 7-9 & 16-18 are found to be unpatentable over considerable consideration of the teachings of Fernandez.

8. Claim 15 is additionally rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of US Patent US 6,697,103 B1 to Fernandez in view of US Patent US 6,286,039 B1 to Van Horne.

9. Regarding Claim 15, Fernandez discloses the retransmitting of the DSL demonstration kiosk IP address upon reboot of a kiosk, (Col. 15, lines 32-40; Col. 17, lines 1-21; Col. 18, lines 35-48; and Col. 19, lines 15-26). Examiner notes the inclusion of a diagnosis and corrective-action tool as incorporated within Fernandez capable of ping testing. Though obvious, as noted herein above, Fernandez does not specifically mention a "reboot" for resolution of a problem with a defective server site. Van Horne specifically teaches a network management server capable of monitoring error conditions, failure detection and remote reboots, (Van Horne - Col. 23, lines 8-10 & 61-67; & Col. 24, line 1). To incorporate the Van Horne remote reboot into the Fernandez diagnostic system would have been obvious as a means of corrective-action tool, as noted within Fernandez. Additionally, Examiner notes both systems utilize IP addresses and "ping" means. Thus, Claim 15 is found to be unpatentable over the combined teachings of Fernandez in view of Van Horne.



***Response to Arguments***

10. Applicant's arguments filed 25 July 2005, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

11. Regarding Applicant's argument that Fernandez does not teach the transmission of an alert message as a result of not receiving a response by a predetermined time, Examiner respectfully disagrees as noted herein above. In response to applicant's argument that Fernandez solves different problems, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Thus, Examiner notes that the use of a telephone or pager notification means for transmission of an alert message would have been obvious as either notification means would have been capable of performing the intended use.

12. Examiner has addressed Applicant's Amendment, and has further rejected all claims, as noted herein above. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak  
Examiner  
Art Unit 2143d

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